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September 26, 1985

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2407 E. Murphy  
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Re: Remedial cleanup of Olin/Wallisville Road site,  
Houston, Harris County, Texas.

Gentlemen:

The purpose of this letter is to explain the position of my client, Eureka Investment Company ("Eureka"), with regard to the remedial cleanup of the above referenced site requested by the Texas Department of Water Resources ("TDWR"), the Texas Water Commission ("TWC") and the Environmental Protection Agency ("EPA") pursuant to correspondence from the TDWR dated April 24, 1985 and July 17, 1985. In that regard, I have enclosed a proposed agreement between the relevant parties which Eureka is prepared to execute and implement immediately as evidenced by its signature thereto. These agreements are not solely drafted by us inasmuch as a majority of their clauses are taken verbatim from prior drafts of agreements prepared by Southern Pacific and Olin. They are modified to reflect the current state of events, bids and the responsibility for being the "generator" of the materials to be removed as more fully discussed hereinafter.

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History of Remedial Cleanup Request. In the fall of 1984, the TDWR began an investigation of the extent of hazardous wastes located at the Olin/Wallisville Road site in order to ascertain the necessity for remedial cleanup at the site. In February, 1985, the TDWR requested that a cleanup of the site be conducted in accordance with specific requirements set forth by the TDWR. After discussions among the parties and at a meeting in Austin, Texas on March 26, 1985, Eureka agreed to investigate the cost of implementing the cleanup based on the expressed intention of Olin and Southern Pacific to participate in sharing the cost pro rata depending on the amount bid by qualified contractors to effect the cleanup. At that time, both the TDWR and Mr. Jim Anderson of Olin projected the cost to be approximately \$135,000.00. Houston Belt & Terminal Railway ("HB&T") was also present at the meeting inasmuch as much of the contaminated soils are located on its right-of-way, but at no time agreed to contribute towards the cost of the cleanup. In that regard, Eureka requested bids from independent contractors for completion of the work in accordance with the standards set forth by the TDWR. Further definition of the work to be done was contained in letters from the TDWR dated April 24, 1985 and July 17, 1985.

On June 19, 1985, Eureka received a bid from Sprint Waste Disposal Company for a cleanup of the site in accordance with the TDWR's specifications, which bid carried a maximum price of \$151,793.00. On June 26, 1985, the undersigned appeared on behalf of Eureka at a meeting conducted at the offices of the TDWR in Austin, Texas and stated that Eureka had received a bid for cleanup of the project and was prepared to pay one-third (1/3) of the cost of the bid, thereby leaving the issue of the execution of an indemnity agreement between the parties as the only remaining issue to be negotiated. No other parties at the meeting had secured a bid for the cleanup project and, thus, negotiations for a final indemnity agreement were delayed as a result of the other parties' attempts to obtain relevant bids. In that regard, a meeting was scheduled at the law offices of Olivier, Stumpf, Falgout & Guynes on August 1, 1985 for the purpose of negotiating an indemnity agreement and selecting a contractor pursuant to bids which were to be obtained by all other parties prior to the meeting.

The said meeting was, in fact, conducted on August 1, 1985, and, at that meeting, representatives of Southern Pacific Transportation Company ("Southern Pacific") appeared with a draft of an indemnity agreement which was acceptable to representatives

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of Eureka. Further, the representatives of Southern Pacific stated that they had requested bids from several contractors and expected to have same in the very near future. Discussions were conducted at the meeting between all relevant parties regarding the wording of the indemnity agreement, but no final resolution of the wording was obtained. Moreover, representatives of Olin Corporation ("Olin") stated that they had not yet even solicited bids from any contractors and were not prepared to do so. Olin wanted to further discuss the scope of work requested by the TDWR. In that regard, they appeared with a document entitled "Scope of Work" which was a rewriting of the requirements of the TDWR. The document contained no material differences in the work to be performed from that prepared by the TDWR. At the conclusion of that meeting, representatives of Olin stated that they were not prepared to select a contractor until such time as they had had the opportunity to secure bids from their Scope of Work document. It was agreed that if any of the parties had any objection to the wording of the Scope of Work prepared by Olin, those objections would be forwarded to Mr. Jim Anderson of Olin within one (1) week. Neither Eureka nor Southern Pacific objected to the wording of the Scope of Work prepared by Olin.

Apparently Olin delayed at least one (1) month in even requesting bids from independent contractors. By mid-August, 1985, both Eureka and Southern Pacific had obtained bids upon which they were prepared to enter into an indemnity agreement with Olin and begin cleanup of the Olin/Wallisville Road site.

On September 6, 1985, the undersigned was notified by Mr. Robert Maher that Mr. Fred Dalby of the TDWR had requested that the EPA take over the monitoring of the Olin/Wallisville Road site and, in fact, implement an emergency cleanup of the site if the relevant parties would not do so immediately. On September 13, 1985, representatives of the EPA, the TDWR and Olin made an on-site inspection of the property and it was determined that an immediate cleanup was necessary. Neither representatives from Southern Pacific nor Eureka were invited or aware of the on-site inspection. On September 16, 1985, a meeting was held at the law offices of Olivier, Stumpf, Falgout & Guynes and attended by representatives of Eureka, Southern Pacific and Olin. At that meeting it was learned that Olin had still not received bids from contractors in order to implement a remedial cleanup of the Olin/Wallisville Road site. Furthermore, it was learned that the lowest bid from Southern Pacific was \$210,000.00 and that the bid obtained by Eureka from Sprint Waste Disposal Company in June, 1985 would now be increased to approximately \$200,000.00 as a

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result of increased costs in disposing of the removed, contaminated property, which price increase had occurred in August, 1985. Thus, the lack of diligence and intentional delays created by Olin in failing to obtain bids from contractors, in failing to take managerial responsibility to effectuate removal of hazardous chemicals it admits manufacturing, and in failing to send representatives with authority to commit to the technical, financial and legal implications of the proposed voluntary cleanup has resulted in the current emergency and has cost all others concerned significant inconvenience, increased costs and greater exposure.

It is now my understanding that unless the parties reach an agreement and select a contractor for cleanup of the site pursuant to the requirements of the TDWR by September 30, 1985, the EPA will undertake to remove contaminated material from the site and seek reimbursement for its costs in so doing from any parties which may have liability pursuant to federal law. It is commonly accepted that the costs of any such action by the EPA will greatly exceed the bids obtained by the parties.

Position of Eureka. Despite the fact that Eureka had no participation whatsoever in the generation, manufacture, production or storage of any hazardous wastes at the Olin/Wallisville Road site, or any other site wherever located; despite the fact that the delays caused by Olin have significantly increased the cost of any remedial action; and despite the fact that Eureka believes it has no liability under federal law to the EPA for emergency cleanup at the site, Eureka is prepared to share in the cost of the remedial cleanup action in the public interests of avoiding any immediate threats to the environment and preserving taxpayers' money, of course, reserving its right to seek reimbursement of all or some of its expenditures from Olin or any other potentially responsible party. However, Eureka will not accept or acknowledge responsibility for or ownership of the contaminated materials in the ditches at the relevant site. Olin is solely responsible for the contaminated material being located at the Olin/Wallisville Road site. Olin is the only party involved in this entire matter which manufactured, generated, produced or sold hazardous chemicals for profit or any other purpose. Despite this fact, Olin has consistently refused to accept responsibility for the location of the hazardous chemicals on Wallisville Road and, in fact, has consistently refused to cooperate with the regulatory authorities or with the other parties involved herein.

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In order for the contaminated materials to be removed from the ditches at the Wallisville Road site and stored in facilities approved by the relevant governmental authorities, a document known as a "Manifest" must be executed, which document acknowledges ownership of the contaminated material and states the exact nature of the materials contained in the contaminated soil. Despite the fact that Olin is the only one of the relevant parties which would have knowledge of the materials in the contaminated soil, Olin has not accepted the responsibility for supplying the list of hazardous materials in the contaminated soil and executing the Manifest which must accompany the removal of the contaminated soils. The enclosed agreement, as well as this letter, challenges Olin to take responsibility for the acts of its representatives in manufacturing and storing these materials at the Wallisville Road site. We hereby call upon Olin to agree to identify the hazardous materials located at the Wallisville Road site, to take responsibility for ownership of the contaminated soil after its removal from the Wallisville Road site and to sign the Manifest which must accompany the contaminated soil to a storage facility. If Olin is willing to take responsibility for the ownership of the contaminated materials as set forth above and in the enclosed agreement, Eureka is still prepared to share pro rata with Olin and Southern Pacific the cost of the remedial cleanup as specified in the enclosed agreements. Should either Southern Pacific or HB&T decline participation in the agreements, Eureka will not automatically decline participation with Olin as long as it can preserve any claims it may have for reimbursement of some or all of its monies expended against all other potentially responsible parties. If Olin is unwilling to acknowledge its responsibility for the location of the contaminated soil at the Wallisville Road site, Eureka will have to assume that Olin is not interested in the cleanup of the Wallisville Road site and thus unconcerned as to the environment and apparent needless expenditure of public funds to remedy the situation.

By copy of this letter, I am notifying the TDWR, the TWC and the EPA of the position of Eureka with regard to the requested remedial cleanup action. It is our hope that those regulatory agencies, as well as Southern Pacific and HB&T, will assist the undersigned in requiring Olin to take responsibility for its previous acts in manufacturing and storing hazardous

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materials and in delaying the implementation of a cleanup action.  
In that regard, we look forward to a favorable response from all  
concerned.

Sincerely yours,

OLIVIER, STUMPF, FALGOUT & GUYNES

Fred W. Stumpf

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